

**10.4 PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION
SITE AMENDMENT TO MAITLAND LEP 2011**

File No:	RZ12003
Attachments:	1. Locality Plan 2. Table 9 Urban Infill & Urban Extension Potential Development Sites 3. Area to be Zoned Residential 4. Proposed Lot Configuration & Building Envelopes 5. Planning Proposal
Responsible Officer:	Bernie Mortomore - Executive Manager Planning, Environment and Lifestyle Ian Shillington - Manager Urban Growth
Author:	Mark Roser - Strategic Town Planner
Maitland 2021	Outcome 7: Diverse and affordable housing
Council Objective:	7.2.1 To ensure land and housing choice is consistent with forecast demographic demand

EXECUTIVE SUMMARY

*Council has received a rezoning request prepared by de Witt Consulting on behalf of the owners of land described as Lot 1 DP 577474, known as No. 149 Aberglasslyn Rd Aberglasslyn. A locality plan is appended to this report as **Attachment 1**. The submission requests Council to amend the Maitland LEP 2011 by rezoning the flood free portion of the land from RU2 Rural Landscape to R1 General Residential and to amend the minimum lot size map to reflect a 450m² minimum to allow development of part of the site for general residential purposes.*

*The subject land is identified in Table 9 and Figure 30 of the Maitland Urban Settlement Strategy 2010 (MUSS) as a Category 2 – Urban Extension Site. Refer to **Attachment 2**. The rezoning request is consistent with the policy framework contained in the MUSS for the development of urban infill or urban extension areas. In order to progress the rezoning proposal, it is necessary to amend the Maitland LEP 2011. This process requires Council's endorsement of a planning proposal in the first instance.*

The proposed end subdivision pattern will result in the creation of allotments with a split zone, R1 General Residential and RU2 Rural Landscape. Under the provisions of the previous Maitland LEP 1993, the creation of allotments with split zones was permissible. The current Maitland LEP 2011 does not provide for split zone scenarios and as such an additional clause, in the Maitland LEP 2011, is required to address this. It is proposed this clause will form part of the planning proposal.

OFFICER'S RECOMMENDATION**THAT**

1. **Council endorse an amendment to the Maitland Local Environmental Plan 2011 to rezone part of Lot 1 DP 577474, 149 Aberglasslyn Rd Aberglasslyn**

from RU2 Rural Landscape to R1 General Residential and to reduce the minimum lot size for subdivision from 40ha to 450m² for that part of the land zoned R1 Residential. The amendment is to include provisions addressing the creation of allotments with split zones across the city.

2. In accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*, the Planning Proposal be submitted to the NSW Department of Planning and Infrastructure for a gateway determination.
3. If the Planning Proposal is given a gateway determination to proceed, undertake consultation with the community and relevant government agencies in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979* and the directions of the gateway determination.
4. A further report be presented to Council following the public exhibition process, to demonstrate compliance with the gateway determination and to provide details on any submissions received during the plan-making process.

COUNCIL RESOLUTION

THAT

1. Council endorse an amendment to the Maitland Local Environmental Plan 2011 to rezone part of Lot 1 DP 577474, 149 Aberglasslyn Rd Aberglasslyn from RU2 Rural Landscape to R1 General Residential and to reduce the minimum lot size for subdivision from 40ha to 450m² for that part of the land zoned R1 Residential. The amendment is to include provisions addressing the creation of allotments with split zones across the city.
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Moved Cllr B Burke, Seconded Cllr P Penfold

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

ORDINARY MEETING MINUTES

23 APRIL 2013

The division resulted in 13 for and 0 against, as follows:

For:	Clr R Aitchison	Against:
	Clr L Baker	
	Clr P Blackmore	
	Clr B Burke	
	Clr P Garnham	
	Clr B Geoghegan	
	Clr A Humphery	
	Clr H Meskauskas	
	Clr N Penfold	
	Clr P Penfold	
	Clr S Procter	
	Clr K Wethered	
	Clr B Whiting	

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PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011 (Cont.)

OFFICER'S RECOMMENDATION

THAT

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REPORT

The purpose of this report is to:

1. Inform Council that it has received a rezoning request for land identified in the MUSS (2010) as a Category 2 – Urban Extension site;
2. Provide the relevant information to enable Council to determine whether their zoning request should be supported;
3. Summarise the contents of the Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*; and
4. Outline the intent of an additional clause in the Maitland LEP 2011 to create developable allotments with split zones.

BACKGROUND

The Maitland Urban Settlement Strategy 2010 (MUSS) was adopted by Council at its meeting on 30 August 2011. The adopted MUSS (at page 116) provides an explanation of the 2010 review process. Specifically, Council adopted a report on Urban Extension and Urban Infill Development at its meeting on 25 August 2009 (Item 10.2) and the outcomes from this report were included in the 2010 edition of the MUSS.

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011 (Cont.)

The subject site was identified as part of the 2010 MUSS review process and is listed in Table 9 and Figure 30 of the MUSS as a Category 2 – Urban Extension site. (Refer **Attachment 2**). An urban extension site is defined as a site that adjoins an urban area and has less than 15 hectares or has the potential for less than 50 residential lots. The rezoning request, submitted on 31 August 2012, is consistent with the policy framework established in the MUSS for progression of individual urban infill or extension sites by amendment to the Maitland LEP 2011 upon receipt of a rezoning proposal.

REZONING PROPOSAL

A rezoning proposal has been received by Council from de Witt Consulting on behalf of the owners of the land known as Lot 1 DP 577474 Aberglasslyn Road, Aberglasslyn. A Locality Plan is included as **Attachment 1- Locality Plan**.

The submission requests Council to amend the Maitland Local Environmental Plan 2011 through rezoning part of the subject land from RU2 - Rural Landscape to R1 - General Residential and to reduce the minimum lot size for subdivision from 40 hectares to 450m². The Proposed Zoning Map and Proposed Lot Size Map are appended to this report as **Attachment 3- Zoning Plan/Lot Size Plan**.

The subject land has a total area of 12.2ha fronting Aberglasslyn Rd to the west and adjoins the North Coast Rail corridor to the east. In June 2007 4.5ha of the subject land was rezoned for residential purposes. This residential area connects with developed residential land to the south, but has not been developed at this stage. The current proposal seeks to rezone an irregular shaped isolated 4600m² section of flood free land fronting Aberglasslyn Rd. Preliminary investigations have identified the potential creation of split zoned lots ranging from 700m² to 1300m² with flood free building envelopes of 150m² within the residentially zoned portion of the land. The residue of the parent allotment would contain the existing dwelling and outbuildings on RU2 - Rural Landscape zoned land.

Planning Proposal

The purpose of the planning proposal is to initially consider the rezoning request to establish whether the proposal is consistent with the established policy framework and, therefore, can be supported by Council. The planning proposal also identifies whether there is likely to be significant environmental, social or economic impacts that require further detailed investigation or consultation with government authorities.

Preparation of the planning proposal has determined that the rezoning request, which creates allotments with a split zone, is not consistent with the provisions of the Maitland LEP 2011. That is, the creation of allotments containing part R1 – General Residential and part RU2 - Rural Landscape zones below the prescribed minimum lot size. The proposed lot design needs to include additional land below the 1%AEP Flood Level to provide for a suitably sized allotment with the dwelling envelope contained on the residentially zoned flood free portion. A site plan detailing the intended lot configuration is appended to this report as **Attachment 4**.

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011 (Cont.)

Allotments with split zones have been created in the past under the provisions of the Maitland LEP 1993. The intent of this provision is to provide for a dwelling within the flood free residentially zoned portion of each allotment, with the remaining rural zoned portion having no dwelling entitlement. It is considered this approach has planning merit as the development principles of both zones are maintained. As the Maitland LEP 2011 does not contain provisions for split zones it is necessary to address this in the planning proposal and subsequent LEP amendment. Informal discussions with the Department of Planning and Infrastructure have concluded that this is a suitable approach to address the split zone issue and provide for efficient subdivision design outcomes.

The LEP amendment would achieve the objectives of the planning proposal as it would enable residential development of part of the site and facilitate conservation of the flood affected rural landscape and visual amenity of the locality. In addition the LEP amendment would ensure development would be consistent with the density and scale of existing adjoining residential development and the urban footprint of the Aberglasslyn area.

The rezoning of the subject site is consistent with the urban extension principles of the MUSS 2010 and would provide for the efficient use of local infrastructure in supporting a small number of additional lots adjoining an existing residential area. The land has largely exhausted its historical agricultural use and the proposal to develop part of the land for residential purposes will result in a higher order use of the land.

Environmentally sensitive areas including the flood affected area of the subject land will be unaffected by the zoning and further conserved with the retention of a rural zone, existing dwelling and associated outbuildings. No additional dwellings on rural zoned land would be permitted.

Environmental Assessment

A planning assessment of the subject site and its specific constraints has been completed by Council. This assessment was informed by site specific information submitted to Council by the applicant, which included:

- Flooding
- Ecological Impacts
- Heritage and Archaeological Significance
- Servicing and Infrastructure Provision
- Contamination
- Access and Traffic
- Existing development
- Geotechnical

It is considered that these matters can be adequately addressed, especially as the LEP amendment only proposes to rezone residential land above Council's flood standard. These matters will continue to be reviewed during the rezoning process, with detailed assessment to occur with a development application.

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011 (Cont.)

Consultation with Public Authorities

No advice has been sought from government agencies and public authorities in relation to the rezoning of the subject site. However, it is anticipated that post gateway determination, Council will consult with public authorities on the proposed rezoning.

Next Steps

If endorsed by Council, the planning proposal will be submitted to the NSW Department of Planning and Infrastructure for gateway approval to proceed with the LEP amendment. The gateway determination will either be (i) exhibit the planning proposal, with or without change, or (ii) to refuse the planning proposal. A positive gateway determination will also make direction regarding the consultation required for the LEP and a timeframe by which the LEP is to be completed.

The planning proposal will then be exhibited in accordance with the directions of the gateway determination and the requirements of Section 57 of the Environmental Planning and Assessment Act 1979. Formal submissions to the planning proposal will be invited and accepted during the exhibition period. The Planning Proposal is appended to this report as **Attachment 5**.

A further report that considers the submissions and any proposed changes to the planning proposal will then be presented to Council.

CONCLUSION

The rezoning request is consistent with the policy framework contained in the MUSS 2010 for the development of urban extension sites. In order to progress the rezoning proposal, it is necessary to amend the Maitland LEP 2011. This process requires the planning proposal to be endorsed by Council and submitted to the Department of Planning and Infrastructure for consideration.

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

This matter has no specific policy implications for Council.

STATUTORY IMPLICATIONS

There are no statutory implications under the Local Government Act 1993 with this matter.



Planning, Environment and Lifestyle Reports

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011

Locality Plan

Meeting Date: 23 April 2013

Attachment No: 1

Number of Pages: 1

Planning, Environment and Lifestyle Reports

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011

Table 9 Urban Infill & Urban Extension Potential Development Sites

Meeting Date: 23 April 2013

Attachment No: 2

Number of Pages: 1

PART FIVE – PLANNING ACTIONS

URBAN INFILL and EXTENSION SITES					
Prop Number	Lot Number	DP Number	Locality	Suburb	Category
28581	24	569086	Hideaway Place	Ashtonfield	2
46931	811	1152320	Thornton Road	Thornton	2
28751	1	833057	Anderson Drive	Thornton	2
29239	2	833057	Thornton Road	Thornton	2
36942	37	755205	New England Highway	Thornton	2
34164	71	714785	Anambah Road	Anambah	2
24038	100	545566	Rockleigh Street	Thornton	2
10504	90	785244	Anambah Road	Anambah	2
30204	1	812143	Golden Ash Drive	Aberglasslyn	2
15794	195	755237	George and Wallis Street	East Maitland	2
31818	7	855275	Wilton Drive	East Maitland	2
28580	23	563550	Hideaway Place	Ashtonfield	2
28752	36	718119	Golden Wattle Crescent	Thornton	2
33871	41	513346	Kingston Road	Woodberry	2
18771	295	238805	Kingston Road	Woodberry	2
28853	2	608466	Woodberry Road	Woodberry	2
33856	1	516629	Woodberry Road	Woodberry	2
28854	1	349112	Woodberry Road	Woodberry	2
28759	31	563916	Kookaburra Avenue	Woodberry	2
12663	1	433693	Carrington Street	Maitland	2
35602	1	669283	Hunter Street	Maitland	2
32792	2	797411	Matthew Lane	Horseshoe Bend	2
32798	3	797411	Matthew Lane	Horseshoe Bend	2
32799	4	797411	Carrington Street	Horseshoe Bend	2
10517	74	822205	Anambah Road	Anambah	2
35710	157	1127393	Mill Street	East Maitland	2
10049	1	577474	Aberglasslyn Road	Aberglasslyn	2
28387	113	804336	Louth Park Road	Louth Park	2
28385	111	804336	Louth Park Road	Louth Park	2
28376	257	813454	Louth Park Road	Louth Park	2
28375	256	813454	Louth Park Road	Louth Park	2

Table 9 Urban Infill and Urban Extension Potential Development Sites

Planning, Environment and Lifestyle Reports

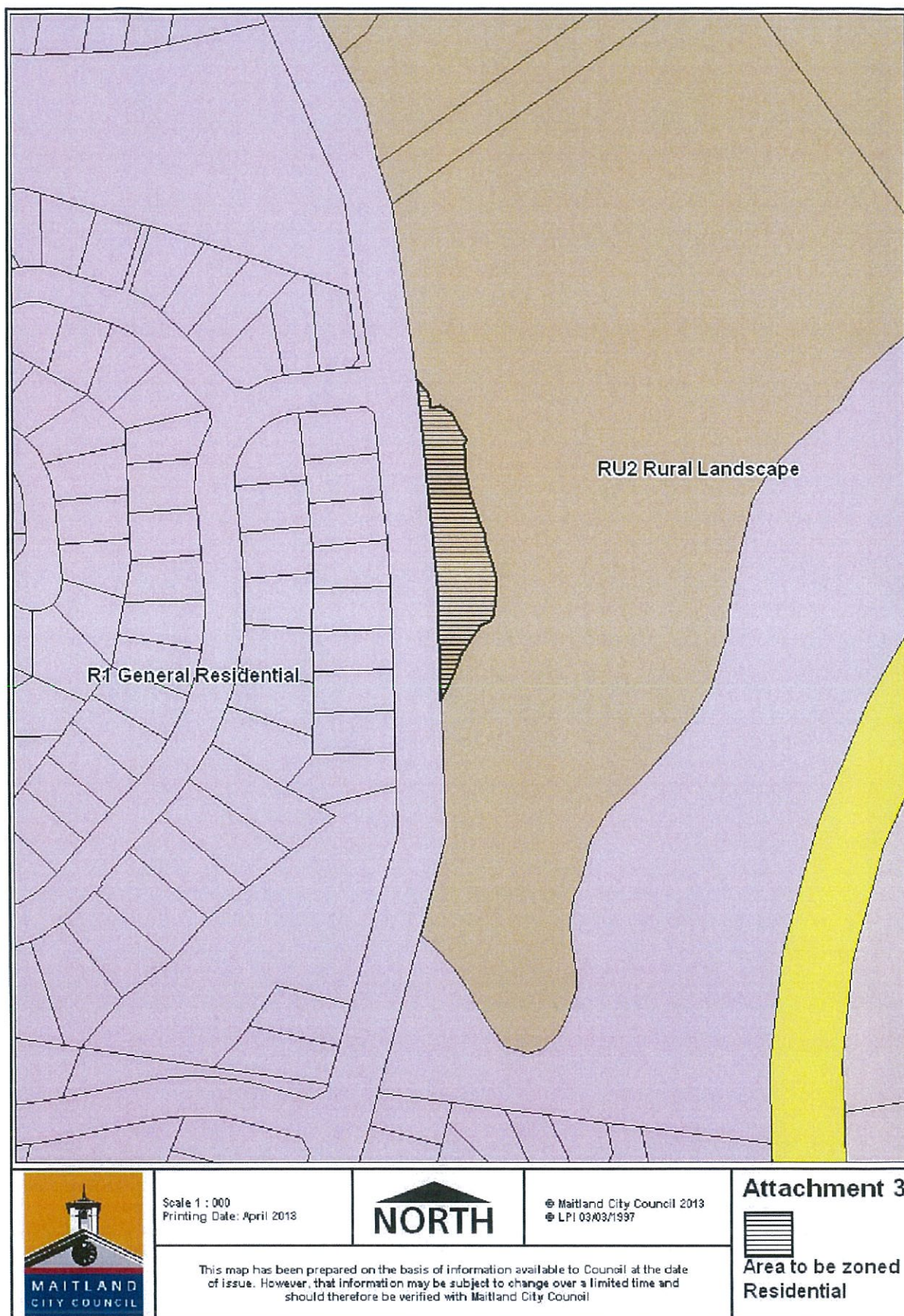
PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011

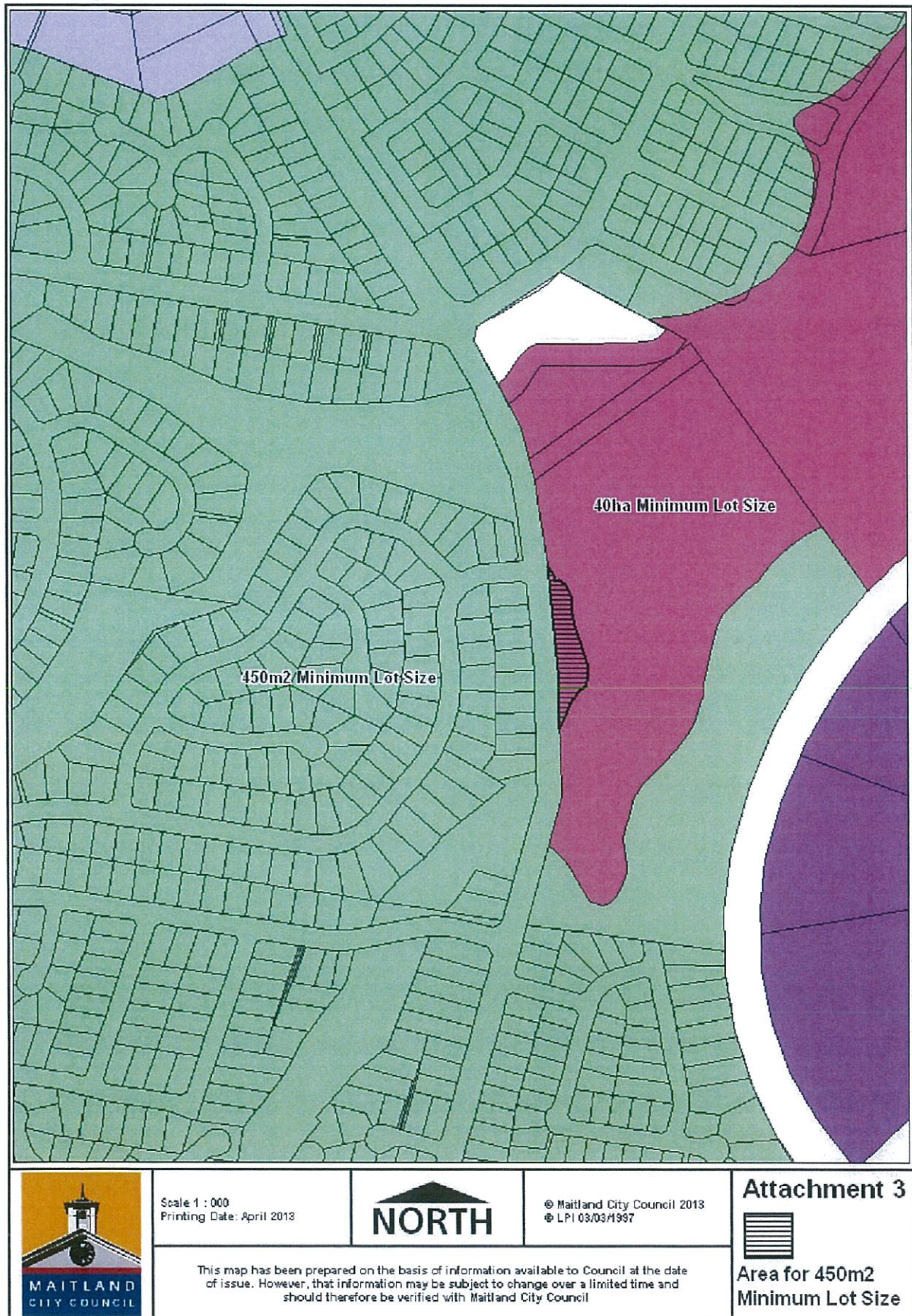
Area to be Zoned Residential

Meeting Date: 23 April 2013

Attachment No: 3

Number of Pages: 2





Planning, Environment and Lifestyle Reports

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011

Proposed Lot Configuration & Building Envelopes

Meeting Date: 23 April 2013

Attachment No: 4

Number of Pages: 1

Planning, Environment and Lifestyle Reports

PLANNING PROPOSAL - ABERGLASSLYN ROAD URBAN EXTENSION SITE AMENDMENT TO MAITLAND LEP 2011

Planning Proposal

Meeting Date: 23 April 2013

Attachment No: 5

Number of Pages: 20

PLANNING PROPOSAL

Amendment to the Maitland LEP 2011

***149 ABERGLASSLYN Rd, ABERGLASSLYN
URBAN EXTENSION SITE AND MINIMUM LOT
SIZES FOR CERTAIN SPLIT ZONES***

(Lot 1, DP 577474)

***Version 1.0
14 March 2013***



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Figures and Tables

Table One: Relevant State Environmental Planning Policies

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Version

Version 1.0. – 14.3.2013 (Report to Council)
